

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jessica Kulig	Team: Team # 6	CCRB Case #: 201402493	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/08/2014 5:30 PM	Location of Incident: 166th Street and Smith Street	Precinct: 113	18 Mo. SOL 9/8/2015	EO SOL 9/8/2015	
Date/Time CV Reported Mon, 03/17/2014 10:53 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/17/2014 10:53 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			113 PCT
2. POM Yevgeniy Zaytsev	12848	949825	113 PCT
3. An officer			113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christopher O'Connor	09080	949410	113 PCT
2. POM Brett Devine	17862	951678	113 PCT
3. SGT Terence McCabe	03251	940387	113 PCT
4. SGT Javier Rodriguez	05096	939338	113 PCT
5. POM Liam Healy	01388	950576	113 PCT
6. POM Alfred Lawrence	20621	936920	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers pointed their guns at § 87(2)(b)	
B. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	
C. POM Yevgeniy Zaytsev	Abuse: PO Yevgeniy Zaytsev damaged § 87(2)(b)'s property.	

Case Summary

§ 87(2)(b) and § 87(2)(b) filed this complaint over the telephone with the CCRB on March 17, 2014 (encl. 5A-5C).

At approximately 6:00 p.m. on March 8, 2014, officers responded to a call for an assault with a weapon at § 87(2)(b) in Queens. The following allegations resulted:

- **Allegation A – Force: Officers pointed their guns at § 87(2)(b) § 87(2)(g)**
§ 87(2)(b)
§ 87(2)(g)
- **Allegation B – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force. § 87(2)(g)**
§ 87(2)(b)
§ 87(2)(g)
- **Allegation C – Abuse of Authority: PO Yevgeniy Zaytsev damaged § 87(2)(b) s property. § 87(2)(g)**
§ 87(2)(b)

This case was ineligible for mediation because of § 87(2)(b) s arrest and because allegations that officers pointed their guns and damaged § 87(2)(b) s property.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) a 5'9" tall, 145 lb. black male with brown eyes and black and gray hair, was § 87(2)(b) old at the time of the incident. § 87(2)(b)

CCRB Statement

§ 87(2)(b) provided statements pertaining to the incident over the telephone on March 17, 2014 (encl. 5A-5C) and in person at the CCRB on March 28, 2014 (encl. 6A-6C). § 87(2)(g)

§ 87(2)(b) and his girlfriend, § 87(2)(b) have rented the basement apartment of § 87(2)(b) in Queens together since 2012, for storage and weekend use. Approximately three weeks prior to the incident, the basement flooded. The landlord, identified by the investigation as § 87(2)(b) refused to do anything about it, so they filed a lawsuit against her for damages.

At approximately 5:30 p.m. on March 8, 2014, § 87(2)(b) went to the apartment to meet § 87(2)(b) who was already inside. He was holding a folded cardboard box because he and § 87(2)(b) were planning to move out of the apartment. [During his initial statement, he also said he was carrying a backpack.] As he approached the location, he saw a few people, including § 87(2)(b) her fiancé, who § 87(2)(b) knew as “§ 87(2)(b) and who was identified by the investigation as § 87(2)(b) and two other people who § 87(2)(b) assumed were § 87(2)(b) s brother and sister. § 87(2)(b) entered the front gate to the house and walked towards the side gate. § 87(2)(b) s brother stood in his way and said, “Where are you going?” § 87(2)(b) asked him a couple times to move out of his way, but he refused.

§ 87(2)(b) attempted to pull the gate open and walk inside. He then felt § 87(2)(b) pull him from behind, punch him in the face, and throw him to the ground. § 87(2)(b) got on top of

§ 87(2)(b) placed his knee on § 87(2)(b)'s face, and began punching him. § 87(2)(b)'s brother also stomped on him. § 87(2)(b) reached for an object on the ground and tossed it at § 87(2)(b) in an attempt to defend himself. He did not know what the object was, but he heard someone say either, "He chopped § 87(2)(b)" or, "He cut § 87(2)(b)". He later learned that the object was a machete. He did not know to whom the machete belonged, but he stated that there was a lot of "stuff" on the ground because the owners had been doing construction and yard work the week prior.

§ 87(2)(b) and his family members continued to beat § 87(2)(b) up until police officers arrived on scene approximately five minutes later. There were approximately twenty to twenty-five officers in ten to fifteen marked police vehicles. They all arrived at the same time. § 87(2)(b) was positioned on his right side, his body curled into a "fetal" position. He was attempting to protect his face and the rest of his body with his arms.

The officers pulled § 87(2)(b) and the others off of § 87(2)(b). As they did this, one of them said, "Don't move! Put your hands behind your back! If you move, I'll shoot you in your head!" § 87(2)(b) could not see which officer said this, but he could tell the comment was directed towards him because the voice was very close. § 87(2)(b) thought that the officers had their guns drawn. He did not see any guns. However, he had a feeling this was the case, but could not explain why.

§ 87(2)(b) rolled over to put his arms behind his back but did not make any other movements. Officers then handcuffed him. He did not know which officer placed the handcuffs on him. While he was being handcuffed, he repeatedly said, "I'm a tenant. I'm a tenant. I'm there legally." He did not say anything else.

The officers then stood him up and escorted him to the patrol car. § 87(2)(b) estimated that about four officers brought him to the vehicle. They held him up by his arms so that he could barely walk on the ground, and when they reached the car, an officer pushed him into the vehicle by his left shoulder while one of them held his head. § 87(2)(b) could not see who pushed him.

§ 87(2)(b) was transported back to the stationhouse by two officers. He described one of the officers as a 5'8" to 5'9" tall, 34 to 35-year-old white male with black hair, brown eyes, and a slim build. § 87(2)(b) believed this officer's name was something along the lines of "Zaytsag," though he did not indicate how he had obtained this information. This officer was identified by the investigation as PO Yevgeniy Zaytsev. He described the second officer as a 200 lb., 5'10" tall Hispanic or Italian male with black hair in his early to mid-30s. This officer was identified by the investigation as PO Christopher O'Connor.

Later in the night, § 87(2)(b) was taken to § 87(2)(b) for injuries he sustained from being beaten up by § 87(2)(b) and his family.

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) a 5'4" tall, 150 lb. black female with brown hair and brown eyes, was § 87(2)(b) years old at the time of the incident. § 87(2)(b)

911 Statement (encl. 18B)

§ 87(2)(b) called 911 during the incident and stated that there was a big fight with three or four guys. She said that one of them had a brick and was beating another one. She also mentioned that officers were at the location earlier in the day. Towards the end of the call, she stated that officers had arrived on scene.

CCRB Statement

§ 87(2)(b) provided statements pertaining to the incident over the telephone on March 17, 2014 (encl. 5A-5C) and in person at the CCRB on March 28, 2014 (encl. 7A-7C). § 87(2)(g)

Before § 87(2)(b) arrived on this day, two officers had already come to the basement apartment of § 87(2)(b). § 87(2)(b) was there by herself packing up the apartment when she heard, "Open the door! NYPD!" § 87(2)(b) opened the door and saw § 87(2)(b) and § 87(2)(b)'s brother and sister with two police officers. § 87(2)(b) identified one officer by name as PO "O'Connelly" and described him as a 5'5" to 5'6" tall, 30 to 35-year-old white male with black hair and a stocky build. This officer was identified by the investigation as PO O'Connor. § 87(2)(b) described the other officer as a 5'5" to 5'6" tall, 28 to 30-year-old Hispanic male with black hair and identified him by name as PO Zaytsev. She obtained both of their names from the 113th Precinct later in the night.

The officers told § 87(2)(b) that the landlord needed to get into the apartment to read the meter. § 87(2)(b) and the others then walked past § 87(2)(b) and went into the apartment. The officers did not enter and left soon after. § 87(2)(b) and their family members searched around the apartment while videotaping. They left after approximately 25 minutes. § 87(2)(b) continued packing.

All of a sudden § 87(2)(b) heard a voice, which she recognized as belonging to § 87(2)(b). § 87(2)(b) screaming for help outside. She exited the apartment and saw § 87(2)(b) on the ground. § 87(2)(b) corroborated § 87(2)(b)'s account of the assault, adding that one of the individuals also picked up a concrete block. § 87(2)(b) ran into the street and yelled, "Murder! Help!" She then called the police and informed them that her boyfriend was being beaten up. She believed that § 87(2)(b)'s sister also called 911. She never saw § 87(2)(b) throw a machete and did not see him ever in possession of a machete.

Approximately ten to twelve officers arrived in about five police cars and a van. When they exited their vehicles, all of the officers drew their guns and pointed them towards § 87(2)(b) who was still getting beaten up at the time. The guns were black and silver. The officers repeatedly said, "Show your hands!" § 87(2)(b) also believed an officer said something along the lines of, "Show your effing hands! If not we're going to shoot you!" § 87(2)(b) could not tell who said this. She believed that the officer said "effing" as opposed to "fucking."

At some point during the incident, § 87(2)(b) started recording on her cellphone. PO Zaytsev, who was part of the group of officers that arrived, turned to her and said, "What's this for?" He then grabbed her phone from her hand and threw it onto the ground. § 87(2)(b)'s phone cracked from the top left corner to the middle right side of the screen.

§ 87(2)(b)'s view of § 87(2)(b) was blocked by the officers. However, she was able to see him when he was eventually lifted off the ground and placed in PO Zaytsev's and PO O'Connor's patrol car. She did not mention any officers pushing him into the vehicle.

After § 87(2)(b) was removed from the scene, § 87(2)(b) went to the 113th Precinct, which is within walking distance of her apartment. She spoke with an unidentified officer at the front desk. She told him that she wanted to file a complaint about what § 87(2)(b) and the others had done to § 87(2)(b). The officer told her that the arresting officer would deal with her, but she was never able to file a complaint.

§ 87(2)(b) was injured from being beaten up. His face was swollen, he had a gash in his head, and his eyes were black and blue.

Photograph of Cellphone (encl. 7G)

A photograph of § 87(2)(b)'s damaged cellphone was taken during her CCRB interview on March 28, 2014. The photograph shows a crack on the screen, which starts at the top left

corner of the phone and travels to the middle right side of the screen.

Attempts to Obtain Video Footage

§ 87(2)(b) had video footage of the incident, including part of the fight between § 87(2)(b) and § 87(2)(b) and the moments leading up to PO Zaytsev allegedly grabbing her phone. An attempt was made to retrieve the video footage from her phone during her CCRB interview, but the files were not available when it was connected to the computer. She was also unable to email the video footage without a connection to the internet. § 87(2)(b) was asked to email the video footage when she got home that night. Multiple calls were placed to her as a reminder. She was unable to figure out how to send it. She then took the phone to her service provider, who stated that there was a “block” on her phone that prohibited her from transferring the footage to a computer. She was asked to send the video footage if she figured out how to do so, but she never sent it.

Witness: § 87(2)(b)

- § 87(2)(b) *a 5’4” tall, 120 lb. black female with dark brown hair and eyes, was § 87(2)(b) old at the time of the incident.* § 87(2)(b)

911 Statement (encl. 18B)

§ 87(2)(b) called 911 during the incident and confirmed that five people were fighting in the yard outside the location. She also stated that someone had just “chopped” her fiancé, a § 87(2)(b) -old male, with a machete. She described the perpetrator as a black male and said that he was being restrained. She told EMS that no one needed medical assistance.

CCRB Telephone Statement

§ 87(2)(b) provided two statements pertaining to the incident over the telephone on May 7, 2014 (encl. 8A-8C).

§ 87(2)(b) confirmed that § 87(2)(b) had been renting the basement apartment of § 87(2)(b) for two years. At the time of the incident, § 87(2)(b) had not paid rent in two or three months and had changed the locks on the door. § 87(2)(b) called the police on this day to notify them that she did not have access to the apartment. She believed that § 87(2)(b) then called § 87(2)(b) to notify him that § 87(2)(b) had called the police.

§ 87(2)(b) and § 87(2)(b) s brother, whose name she refused to provide, went outside and sat down. § 87(2)(b) arrived at the location shortly thereafter. He was holding a cardboard box. He told § 87(2)(b) s brother to get out of the way and then said that if he did not move, he would kill him. § 87(2)(b) stood up. § 87(2)(b) then pulled a machete out of the cardboard box and began swinging it. § 87(2)(b) and § 87(2)(b) s brother tried to block § 87(2)(b) from swinging it with a nearby gate. Nevertheless, § 87(2)(b) struck § 87(2)(b) twice in the head with it. § 87(2)(b) had a slash and swelling on his forehead as a result.

§ 87(2)(b) and § 87(2)(b) s brother were eventually able to restrain § 87(2)(b) though he held onto the machete for approximately 15 minutes until the officers responded. § 87(2)(b) her sister, her § 87(2)(b) -old and § 87(2)(b) old children, and her neighbors stood and watched.

Approximately 10 or 15 officers arrived on scene. § 87(2)(b) could not describe any of them in detail but stated that most were white males and all were in uniform. Two or three of them had their guns drawn when they arrived. They were pointed towards the ground, where § 87(2)(b) and § 87(2)(b) s brother were all positioned. § 87(2)(b) could not describe the officers who had their guns drawn, and she could not describe what the guns looked like. The officers said, “Don’t move! Don’t move!” § 87(2)(b) did not know to whom this command was

addressed. The officers holstered their guns when they reached the gate in front of the house.

Five or six officers attempted to restrain § 87(2)(b) who was kicking and punching and yelling, "Get off me! I'm going to kill you!" She heard the officers tell him to stop fighting. She did not see how they eventually handcuffed him since she turned her attention to § 87(2)(b) when they arrived.

During the incident, § 87(2)(b) stood behind the officers and repeatedly said that § 87(2)(b) did not do anything. § 87(2)(b) saw § 87(2)(b) holding her phone during the incident, but she assumed she was on the phone with the police. She never saw her recording the incident on her phone. She did not see an officer grab her phone from her, and she never saw the phone fall to the ground at any point. § 87(2)(b) also saw § 87(2)(b) speaking with an officer by a police vehicle. She was asking the officer questions, and he told her to take her belongings and leave. § 87(2)(b) could not describe this officer.

Witness: § 87(2)(b)

- § 87(2)(b) a black female, was § 87(2)(b) old at the time of the incident. She resided at § 87(2)(b)

911 Statement (encl. 18B)

§ 87(2)(b) called 911 during the incident and stated that there was fighting next door. She said that a group of three men and two women were on top of another man. She initially said that she did not know what they were doing to him and later stated that they were hitting him. She could not tell if there were any weapons involved. She described one of the individuals as a black male with a hoodie. At the end of the call, she stated that a car had just pulled up.

CCRB Telephone Statement

§ 87(2)(b) provided a telephone statement on May 7, 2014 (encl. 9A). She did not wish to provide a sworn statement to the CCRB.

§ 87(2)(b) was inside her home at the time of the incident. She heard people screaming for someone to call the police. She saw that there was a fight going on, but she did not know how it started, and she did not know who was involved. When she looked outside, she saw one male on the ground with about three or four others on top of him. They seemed to be holding him down until the police came. There were two or three females outside as well.

The male on the ground, identified by the investigation as § 87(2)(b) was screaming for help. The other males holding him down did not appear to be doing anything else. She did not see anyone swinging at each other.

Officers arrived to the scene approximately two minutes later in about six police vehicles. Only one of them was unmarked. When they arrived, an officer, who she described as a 5'8" tall white male in his 30s or 40s with a medium build and sandy blond hair, pulled out what she believed to be a silver taser. He pointed it towards the group of men on the ground. She could not hear if the officer said anything because the windows of her house were closed at the time. The only thing she could hear during the incident was a female who was screaming for someone to call the police. She did not see any officers with their guns drawn.

The officers arrested § 87(2)(b) § 87(2)(b) initially stated that she believed the officer with the taser handcuffed him. She later stated that she did not know who handcuffed him. § 87(2)(b) was not doing anything with his body at this time. While he was being handcuffed, he heard an officer tell him to shut up. She did not know which officer said this. She only remembered two other officers, both of whom were white males, but she could not describe them further. § 87(2)(b) did not see when § 87(2)(b) was taken to the police vehicle.

§ 87(2)(b) never saw anyone holding a phone. She never saw an officer grab anyone's

phone from them, and she did not know if she ever saw a phone fall to the ground.

Witness: § 87(2)(b)

- § 87(2)(b) *a black female, was § 87(2)(b) old at the time of the incident.* § 87(2)(b)

911 Statement (encl. 18B)

§ 87(2)(b) called 911 during the incident and stated that someone had gotten stabbed. She was standing by her window inside the house, and people were outside yelling and screaming. She saw one person on the ground, and she believed that others were saying he had gotten stabbed. She could not tell if he was bleeding.

CCRB Telephone Statement

§ 87(2)(b) provided a statement over the telephone on May 27, 2014 (encl. 10A). She did not wish to provide a sworn statement to the CCRB.

§ 87(2)(b) was inside her house at the time of the incident. She observed a commotion next door. It appeared as if her neighbor, who she knew only by the name § 87(2)(b) but who was identified by the investigation as § 87(2)(b) was getting beaten up. § 87(2)(b) could not see the incident clearly, but she heard his family members yelling his name. She also heard another woman, who she described as a 5'5" tall black woman in her 40s and who was identified by the investigation as § 87(2)(b) yelling, "Murderer!"

§ 87(2)(b) and another man, who § 87(2)(b) described as a tall, black man in his 40s and who was identified by the investigation as § 87(2)(b) were holding each other and struggling on the ground. § 87(2)(b) could not see exactly what was going on, but she believed that one of them was on top of the other. She did not see any punches being thrown. There was a crowd of approximately fifteen people outside, who were hovering over § 87(2)(b) and § 87(2)(b). § 87(2)(b) called 911 because she thought § 87(2)(b) was hurt. At least 10 uniformed officers arrived to the scene, all at approximately the same time. One of the officers, who § 87(2)(b) described as a 5'7" to 5'8" tall, 30-year-old white male, weighing less than 200 lbs., drew his gun and pointed it towards the ground where § 87(2)(b) and § 87(2)(b) were struggling. He said either, "Get back," or, "Get down." § 87(2)(b) never heard him threaten to shoot the gun. His gun, which she believed to be a black 9mm Glock, was not out for very long. She later saw this officer with the gun holstered. This officer remains unidentified.

The officers ordered the crowd to move back, and they separated § 87(2)(b) and § 87(2)(b). No physical force was used to do this. At some point, § 87(2)(b) saw § 87(2)(b) being escorted to a police vehicle in handcuffs. She did not see which officer handcuffed him. She could not describe any of the other officers who were there.

While § 87(2)(b) was being escorted to the car, § 87(2)(b) saw officers pick up a backpack from the ground. At some point, she observed them remove a large knife from it. She never saw the backpack in § 87(2)(b)'s possession and did not see it at all until the officers arrived.

§ 87(2)(b) was talking on the phone before the officers arrived. § 87(2)(b) did not recall if she still had her phone out once they got to the scene. She never saw any officer grab her phone and throw it on the ground.

Witness: UNKNOWN 911 CALLER

911 Statement (encl. 18B)

An unknown female called 911 during the incident and stated that there was a landlord-tenant

dispute over the basement apartment at § 87(2)(b). She said that a man came to the location, took something out in the yard, and started to cut her brother-in-law with it.

§ 87(2)(b), § 87(2)(g)

Attempts to Contact Civilians

- Calls were placed to § 87(2)(b) on April 4, 2014 and April 18, 2014 at a number obtained from WhitePages. No one answered these calls, and no voicemail was available. A phone number was obtained from the UF-61 on April 18, 2014, and two calls were placed to this number on April 21, 2014 and April 28, 2014. Each time, § 87(2)(b) answered and said he could not talk because he was at work. He stated that he would call back. Two additional calls were placed to this number on May 1, 2014 and May 6, 2014. He did not answer these calls, so voicemails were left. Please call letters were sent to § 87(2)(b) on April 3, 2014 and May 1, 2014. They were not returned by the United States Postal Service. A New York City Department of Corrections search on September 4, 2014 produced no results for § 87(2)(b).
- § 87(2)(b) refused to provide the name or contact information of her brother. Therefore, he could not be contacted.

NYPD Statements:

Subject Officer: PO YEVGENIY ZAYTSEV

- PO Zaytsev, a 6'1" tall, 185 lb. white male with black hair and brown eyes, was § 87(2)(b) old at the time of the incident.
- On the day of the incident, PO Zaytsev, of the 113th Precinct, worked between 3 p.m. and 11:35 p.m. He was assigned to Patrol Sector H with PO Christopher O'Connor. He was dressed in uniform and worked in marked vehicle number 3272.

Memo Book (encl. 11A-11B)

At 6 p.m., PO Zaytsev responded to an assault in progress at § 87(2)(b). At 6:20 p.m., a crime arrest was made, generating arrest number § 87(2)(b). The complainant/victim stated that the defendant struck him with a machete on his head. At 6:30 p.m., PO Zaytsev responded to the 113th Precinct.

Complaint Report/Arrest Report (encl. 11C-11H)

PO Zaytsev reported that he was informed by § 87(2)(b) that § 87(2)(b) struck him in the head with a machete, causing swelling and bruising. The machete was recovered. § 87(2)(b) was arrested for § 87(2)(a) 160.50

Criminal Court Complaint (encl. 11I-11J)

PO Zaytsev stated that § 87(2)(b) informed him that he was sitting on the steps of § 87(2)(b) in Queens when § 87(2)(b) approached him and struck him on his head with a machete, causing swelling to his head and abrasions to his hands. PO Zaytsev reported that he observed these injuries on § 87(2)(b). He recovered a machete on the ground next to § 87(2)(b) which § 87(2)(b) identified as the machete that was used to strike him on the head.

Medical Treatment of Prisoner Report (encl. 11K)

PO Zaytsev prepared a medical treatment of prisoner report for § 87(2)(b) who was transported to § 87(2)(b) at 9:30 p.m. He had head, face, and body pains, which resulted from an assault. § 87(2)(b) requested x-rays.

CCRB Statement

PO Zaytsev was interviewed at the CCRB on April 29, 2014 (encl. 11L-11N).

PO Zaytsev and PO O'Connor initially responded to § 87(2)(b) in Queens (noted in his memo book as § 87(2)(b) around 5:20 p.m. on March 8, 2014 due to a landlord-tenant dispute. When he arrived, the landlord, identified by the investigation as § 87(2)(b) informed them that the tenant, § 87(2)(b) was supposed to be renting the space for storage but was actually living there instead. PO Zaytsev referred § 87(2)(b) to landlord-tenant court. He took no other police action while on scene, and he and PO O'Connor left after approximately 25 minutes.

Approximately 15 minutes after PO Zaytsev left, there was another call from the location about an assault with a weapon. PO Zaytsev did not recall what other information was given in the call. When he arrived, there were already other officers on scene. PO Zaytsev did not recall who was first to arrive. He did not recall any of the other officers who were there, and he could not estimate how many responded in total.

PO Zaytsev observed the victim of the alleged assault, identified by the investigation as § 87(2)(b) as well as § 87(2)(b) who was § 87(2)(b)'s boyfriend. PO Zaytsev did not recall seeing any injuries on § 87(2)(b). § 87(2)(b) had bruising to his face and head, which he claimed to be a result of being struck with the machete.

PO Zaytsev did not recall how § 87(2)(b) and § 87(2)(b) were positioned or what they were doing. He did not recall if either of them was on the ground, but he recalled that there was a machete approximately two feet away from § 87(2)(b)'s leg. They were arguing, but PO Zaytsev did not recall the nature of the argument. He did not observe any physical altercation between them.

§ 87(2)(b) pointed out § 87(2)(b) and stated that he struck him over the head with the machete. The officers then attempted to handcuff § 87(2)(b) who resisted by flailing his arms and refusing to put his hands behind his back. Officers were issuing § 87(2)(b) commands to put his arms behind his back, but PO Zaytsev did not recall specifically who was making these commands.

PO Zaytsev was eventually able to handcuff § 87(2)(b). He did not recall if any other officers assisted him. He did not use any force against § 87(2)(b) and did not see any other officers do so. § 87(2)(b) was on the ground when they were trying to restrain him, but PO Zaytsev did not recall how he got to the ground.

There were other civilians watching the incident. PO Zaytsev did not recall how many were there or what they were doing. He remembered interacting with § 87(2)(b) who asked what was going on and requested § 87(2)(b)'s property. PO Zaytsev gave her the property and explained the situation to her. PO Zaytsev did not recall § 87(2)(b) recording the incident on her cellphone at any point. He never saw her with her cellphone out. He denied grabbing her phone and throwing it onto the ground. He never heard her complain that her cellphone had been broken.

PO Zaytsev initially stated that he did not know who put § 87(2)(b) in the vehicle, but he later stated that it was him. He denied pushing § 87(2)(b) in the car and did not see another officer do so. Once § 87(2)(b) was in the vehicle, PO Zaytsev explained to him what was

going to happen and asked him to cooperate. PO Zaytsev did not recall if he transported § 87(2)(b) to the stationhouse.

PO Zaytsev denied ever drawing his gun on scene or seeing another officer do so. He denied saying, “If you move, I’ll shoot you in the head.” He did not hear another officer make this statement.

Witness Officer: PO CHRISTOPHER O’CONNOR

- *PO O’Connor, a 5’9” tall, 229 lb. white male with black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, PO O’Connor, of the 113th Precinct, worked between 3 p.m. and 11:35 p.m. He was assigned to Patrol Sectors H and I with PO Yevgeniy Zaytsev. He was dressed in uniform and worked in marked vehicle number 3272.*

Memo Book (encl. 12A-12E)

At 5:20 p.m., PO O’Connor responded to a dispute at § 87(2)(b). At 5:40 p.m., a non-crime was corrected and forwarded to another agency. At 6 p.m., PO O’Connor responded to an assault in progress at § 87(2)(b). At 6:20 p.m., one individual was arrested by PO Zaytsev. At 6:30 p.m., PO O’Connor arrived at the 113th Precinct.

CCRB Statement

PO O’Connor was interviewed at the CCRB on May 27, 2014 (encl. 12F-12H). § 87(2)(g)

PO O’Connor corroborated PO Zaytsev’s account of the initial call to § 87(2)(b). He confirmed that, during the second call, multiple officers were already on scene when they arrived. He did not recall who any of them were or how many were there.

When PO O’Connor arrived the second time, he observed a male, identified by the investigation as § 87(2)(b) on the ground holding a machete and “fighting” with officers. He clarified that § 87(2)(b) was flailing his arms but did not recall if he was doing anything else with his body. He did not recall how § 87(2)(b) was positioned on the ground or how he was holding the machete. He did not recall how many officers were struggling with him, whether they were making commands to him, or whether they were doing anything to overcome his resistance. PO O’Connor did not believe he spoke to any of the officers who initially arrived on scene.

PO O’Connor did not recall how § 87(2)(b) was eventually handcuffed. He did not recall if he or PO Zaytsev assisted. He did not recall what actions he or PO Zaytsev took on scene, and he did not recall where he stood in relation to § 87(2)(b). He did not recall who transported § 87(2)(b) back to the stationhouse or who escorted him to the police vehicle. He did not recall ever pushing § 87(2)(b) or having any contact with him at all. He did not recall seeing any other officer push him.

There was a crowd of approximately ten people on scene, some of whom stated that § 87(2)(b) had slashed another male, identified by the investigation as § 87(2)(b) in the head with the machete. PO O’Connor did not observe any injuries on § 87(2)(b).

PO O’Connor did not recall seeing any of the civilians recording the incident on their cellphones. He did not recall if any of them had their cellphones out at all. He did not recall ever seeing PO Zaytsev throw one of their phones on the ground.

PO O’Connor did not recall if he ever drew his gun while on scene. He did not recall seeing other officers draw their guns. He stated that, in this instance, officers would have been permitted to draw their guns because of the call for an assault with a machete.

PO O’Connor did not recall if he ever said, “If you move, I’ll shoot you in the head.” He did not recall if he heard any other officer make this statement. He did not recall if he ever threatened

to use force against anyone or if he heard any other officer do so.

Witness Officer: PO BRETT DEVINE

- *PO Devine, a 5'9" tall, 190 lb. white male with black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, PO Devine, of the 113th Precinct, worked between 3 p.m. and 11:35 p.m. He was assigned to Patrol Sectors E, F, and H with PO Liam Healy. He was dressed in uniform and worked in vehicle number 4269.*

Memo Book (encl. 13A-13C)

At 6:05 p.m., PO Devine responded to an assault in progress at 166th Street and Smith Street on the 113th Precinct border. At 6:10 p.m., he arrived on scene. He grabbed the perpetrator's legs when the arresting officer was handcuffing the perpetrator. One individual was arrested at the location.

CCRB Statement

PO Devine was interviewed at the CCRB on June 27, 2014 (encl. 13D-13F).

PO Devine and PO Healy responded to § 87(2)(b) in Queens at approximately 6:05 p.m. on March 8, 2014 in response to a call for an assault in progress. When they arrived, there were already other officers on scene, though PO Devine did not recall who they were. The only other officer he remembered being on scene during the incident was PO Zaytsev, but he did not recall if PO Zaytsev was there when he arrived.

PO Devine remembered officers attempting to place a male, identified by the investigation as § 87(2)(b) in handcuffs. § 87(2)(b) was on the ground inside of a fence. He was resisting by flailing his arms and kicking his legs. PO Devine did not recall if PO Zaytsev was involved and did not remember anything PO Zaytsev did while on scene.

PO Devine assisted in the apprehension of § 87(2)(b) by holding his legs down. He also made commands to § 87(2)(b) to stop resisting and stop kicking. Other officers made commands to § 87(2)(b) but PO Devine could not remember exactly what they said. He did not know how § 87(2)(b) was eventually handcuffed because he never looked up to see what the rest of the officers were doing. He did not recall seeing any officers bring him to a police vehicle.

There were other civilians on scene, but PO Devine did not recall how many there were or what they were doing. PO Devine never observed injuries on any civilians while on scene and did not recall anyone complaint of injuries. He did not remember anyone videotaping during the incident and did not recall anyone holding a phone. He never saw PO Zaytsev grab anyone's phone and throw it on the ground. He did not recall seeing anyone's phone ever fall to the ground.

PO Devine never drew his firearm while on scene. He never saw any other officers draw their firearms and never learned that any officers had done so. He denied saying, "If you move, I'll shoot you in the head." He never heard another officer make this statement. PO Devine never saw a machete on scene and never learned that a machete had been recovered.

Witness Officer: PO LIAM HEALY

- *PO Healy, a 5'7" tall, 145 lb. white male with brown hair and green eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, PO Healy, of the 113th Precinct, worked between 3 p.m. and 11:35 p.m. He was partnered with PO Brett Devine. He was assigned to Patrol Sector E. He was dressed in uniform and worked in marked vehicle number 4265.*

Memo Book (encl. 14A-14C)

At 6:05 p.m., he was backing 113th Precinct Patrol Sector H for an assault at 119th Avenue and 166th Street.

CCRB Statement

PO Healy was interviewed at the CCRB on August 7, 2014 (encl. 14D-14E). § 87(2)(g)

PO Healy confirmed that there were officers already on scene when he arrived. He estimated there were approximately ten. However, he did not recall who any of them were. He did not recall seeing PO Zaytsev there.

PO Healy also confirmed that officers were attempting to apprehend § 87(2)(b) when he arrived. He could not see exactly what was going on because there were too many officers standing around him. PO Healy did not see if § 87(2)(b) resisted while he was being handcuffed. PO Healy did not see who escorted § 87(2)(b) to the vehicle.

PO Healy spoke with the victim of the assault, identified by the investigation as § 87(2)(b) said that he did not think he had been struck with the machete. PO Healy examined him and did not see any serious injuries on him. PO Healy did not recall what actions PO Devine took while on scene.

There was a group of civilians standing about five or six feet away from the officers. PO Healy did not recall how many there were or what they were doing. He never saw any of them recording on their cellphones or holding their cellphones at any point. He never saw PO Zaytsev grab a phone from a civilian and throw it on the ground. He never saw a phone fall to the ground at any point.

PO Healy never drew his firearm on scene or saw any other officer do so. He never learned that anyone had drawn their firearms. He denied saying, "If you move, I'll shoot you in the head." He never heard any other officer make this statement. He never threatened to use force against anyone and did not hear another officer do so.

PO Healy never spoke to the officers who initially arrived on scene, and he never spoke to PO Zaytsev about the incident. He did not remember ever seeing a machete while on scene.

Witness Officer: SGT. JAVIER RODRIGUEZ

- *Sgt. Rodriguez, a 6' tall, 215 lb. Hispanic male with black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, Sgt. Rodriguez worked between 2:50 p.m. and 11:47 p.m. He was the patrol supervisor. He was partnered with PO Alfred Lawrence in marked vehicle number 4493, and he was dressed in uniform.*

Memo Book (encl. 15A-15C)

At 6:10 p.m., Sgt. Rodriguez responded to a call for an assault with a knife at § 87(2)(b)

§ 87(2)(b) A male was assaulted with a machete. The perpetrator was on scene. An arrest was made by PO Zaytsev. The machete was recovered.

CCRB Statement

Sgt. Rodriguez was interviewed at the CCRB on August 7, 2014 (encl. 15D-15F).

He responded to the scene with PO Lawrence around 6:10 p.m. When they arrived, PO Zaytsev and his partner, identified by the investigation as PO O'Connor, were struggling on the ground with an individual, who Sgt. Rodriguez later learned to be § 87(2)(b) There were no other officers on scene at this point.

Sgt. Rodriguez did not see how PO Zaytsev and PO O'Connor got to the ground. He and PO

Lawrence went over to assist them. § 87(2)(b) was lying on his stomach with his arms underneath him. He was refusing to put his arms behind his back. Although Sgt. Rodriguez initially stated that § 87(2)(b) was not resisting in any other way, he later stated that § 87(2)(b) was kicking his legs. Eventually, the officers were able to pull § 87(2)(b)'s arms behind his back.

Once § 87(2)(b) was handcuffed, Sgt. Rodriguez and PO Lawrence took him to a police vehicle and placed him inside. § 87(2)(b) was still belligerent and was shouting profanities, such as, "Go fuck off." He was also still kicking. Sgt. Rodriguez denied pushing him into the police vehicle or seeing PO Lawrence do so. They simply placed him inside and closed the door.

There were several other civilians standing around, including § 87(2)(b) and at least three others, some of whom appeared to be related to § 87(2)(b). Sgt. Rodriguez never interacted with any members of the crowd. He did not remember anyone recording on their cellphones during the incident. He never saw PO Zaytsev grab a civilian's phone from her hand and throw it on the ground. He never saw anyone's phone fall to the ground at any point.

PO Zaytsev informed Sgt. Rodriguez that § 87(2)(b) had allegedly attempted to strike § 87(2)(b) with a machete. Sgt. Rodriguez saw the machete after § 87(2)(b) was apprehended. PO Zaytsev was holding it in his hands and said that he had recovered it from the ground.

Sgt. Rodriguez never drew his firearm while on scene. He did not see any other officer draw his firearm, and he never learned that an officer had done so. He denied saying, "If you move, I'll shoot you in the head." He never heard any other officer say this. He never threatened to use force against § 87(2)(b) and did not hear any other officer do so.

Additional officers arrived on scene after § 87(2)(b) was placed into custody. Sgt. Rodriguez did not recall who these officers were. They had no involvement in the apprehension and took no other police action while on scene.

Witness Officer: PO ALFRED LAWRENCE

- *PO Lawrence, a 5'10" tall, 185 lb. white male with brown hair and hazel eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, PO Lawrence worked between 3 p.m. and 11:35 p.m. He was the operator for Sgt. Javier Rodriguez. He was dressed in uniform and was assigned to marked vehicle number 4493.*

Memo Book (encl. 16A)

At 6:05 p.m., he was backing 113th Precinct Patrol Sector H for an assault at 119th Avenue and 166th Street.

CCRB Statement

PO Lawrence was interviewed at the CCRB on August 19, 2014 (encl. 16B-16C). § 87(2)(g)

PO Lawrence stated that there were at least five to ten officers already on scene when he and Sgt. Rodriguez arrived. He did not remember who any of them were. He did not recall seeing PO Zaytsev. Additional officers arrived after PO Lawrence and Sgt. Rodriguez got there.

PO Lawrence attempted to assist in apprehending § 87(2)(b). However, there was a large crowd of officers and civilians, and PO Lawrence was not able to get to § 87(2)(b). He did not recall how § 87(2)(b) was positioned on the ground. He believed that it took a couple minutes to handcuff § 87(2)(b). He could not tell if § 87(2)(b) was resisting because he was not able to see him.

PO Lawrence remembered seeing § 87(2)(b) being taken to a vehicle in handcuffs. He

did not recall if he assisted. He did not recall how § 87(2)(b) was acting but did not recall any resistance from him at this point. PO Lawrence never pushed § 87(2)(b) inside the police vehicle and did not see another officer do so.

There were approximately ten to twenty civilians on scene, who were screaming at the officers. PO Lawrence spoke to an unidentified woman who was screaming about a knife. He did not recall seeing or speaking with the victim of the alleged assault. He did not remember making commands to anyone.

PO Lawrence did not remember anyone videotaping on a phone or holding a phone at all. He did not remember seeing any officer grab a woman's phone from her hand and throw it on the ground. He did not remember seeing a phone on the ground at any point.

PO Lawrence never drew his firearm or pointed it at anyone. He did not see any other officers draw their firearms. He never learned that officers had done so. He denied ever saying, "If you move, I'll shoot you in your head." He never heard other officers make this statement.

PO Lawrence did not remember if he ever spoke to the officers who first arrived on scene or if he ever learned who they were. At some point he heard that someone had been waving around a machete, but he never saw this machete.

Witness Officer: SGT. TERENCE MCCABE

- *Sgt. McCabe, a 6' tall, 200 lb. white male with brown hair and blue eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, Sgt. McCabe worked between 2:50 p.m. and 11:47 p.m. He was the desk sergeant. He was dressed in uniform. He did not have a partner or a vehicle assignment.*

Memo Book (encl. 17A-17B)

Sgt. McCabe did not have any memo book entries pertaining to the incident.

CCRB Statement

Sgt. McCabe was interviewed at the CCRB on July 8, 2014 (encl. 17C-17D).

Sgt. McCabe was the desk officer and never left the stationhouse that day. He did not recall ever seeing § 87(2)(b) or § 87(2)(b) and he never remembered any civilians coming into the stationhouse that day and complaining about officers' conduct during an arrest.

NYPD Documents

Events / Communications CD (encl. 18B-18Z)

Several calls were placed to 911, beginning at 6:04 p.m. on March 8, 2014, about an assault in progress. The dispatcher initially reported that multiple people were beating up a male and that there were unknown weapons and injuries. She then advised officers that there was another call from the location about an assault with a knife. She provided a description of a black male wearing a hoodie of an unknown color. She said that they were holding the male at the location and that a 28-year-old male was stabbed with a machete.

Officers from Patrol Sector E arrived on scene at 6:08 p.m. Officers from Patrol Sector H responded at 6:10 p.m. A sergeant from the 113th Precinct arrived at 6:12 p.m. At 6:21 p.m., an individual was arrested by Patrol Sector H and was being transported back to the stationhouse.

Command Log (encl. 18JJ)

§ 87(2)(b) was arrested by PO Zaytsev for § 87(2)(a) 160.50 at 6:20 p.m. His physical condition was listed as apparently normal. He was initially en route to central booking at 8:15 p.m., but the command log notes that he returned to the 113th Precinct at 3:10 a.m. He was

then transported to central booking again at 3:45 a.m.

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)], § 87(2)(a) 160.50

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) have not filed a notice of claim with the City of New York as of June 26, 2014 with regard to the incident (encl. 20A).

Civilians Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- A BADS search on September 5, 2014 revealed no arrest for § 87(2)(b) (encl. 19C-19D).

Civilians CCRB History

- This is the first CCRB complaint involving § 87(2)(b) (encl. 3A).
- This is the first CCRB complaint involving § 87(2)(b) (encl. 3B).

Subject Officer CCRB History

- PO Zaytsev has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 2A).

Conclusion

Identification of Subject Officers

- § 87(2)(b) identified PO Zaytsev by name and provided a description of him, which generally matched his pedigree information. PO Zaytsev had a memo book entry pertaining to the incident and confirmed his involvement during his CCRB interview. § 87(2)(g)
- § 87(2)(g) stated that all of the officers had their guns drawn but could not provide any specific descriptions. § 87(2)(b) did not actually see the officers pointing their guns. While § 87(2)(b) saw two or three officers with their guns drawn, she could not describe any of them. § 87(2)(b) saw a 5'8" tall white male in his 30s or 40s with a medium build and sandy blond hair holding a silver "taser." However, none of the officers identified as being on scene closely matched this description. Finally, § 87(2)(b) saw an officer, who she described as a 5'7" to 5'8" tall, 30-year-old white male, weighing less than 200 lbs., pointing his gun in the direction of § 87(2)(b). This description was too vague to identify the subject officer. Furthermore, § 87(2)(b) and § 87(2)(b) were all unwilling to come to provide a sworn statement to the CCRB, so photos could not be shown. None of the officers interviewed by the investigation admitted to ever drawing their firearms or seeing any other officer do so. There were no other units listed on the Event, and no one could identify any other officers who were on scene. § 87(2)(g)

- Neither § 87(2)(b) nor § 87(2)(b) saw the officer who allegedly threatened to shoot his gun. None of the other witnesses heard an officer make these comments. None of the officers interviewed by the investigation admitted to threatening to shoot his firearm or hearing any other officer do so. § 87(2)(g)

Allegations Not Pleaded

- § 87(2)(b) § 87(2)(b) 7(2)(g)
- § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Officers pointed their guns at § 87(2)(b)

It is undisputed that officers went to § 87(2)(b) in response to call for an assault with a knife involving multiple people and that, when they arrived on scene, there was a crowd of screaming civilians at the location.

§ 87(2)(b) and § 87(2)(b) all saw officers with their guns drawn and pointed towards the group of people wrestling on the ground, which included § 87(2)(b) § 87(2)(b) § 87(2)(b) also saw an officer pointing an object in this direction. Although she believed the object to be a taser, she described it as silver, making it far more likely that it was a gun.

None of the officers interviewed by the investigation admitted to ever drawing or pointing their firearms or to seeing any other officer do so. § 87(2)(g)

An officer may draw or point his firearm as long as he has a reasonable fear that his own life or the life of another is endangered. NYPD v. Gliner, OATH Index No. 955/00 (Sept. 6, 2000) (encl. 1A-1T).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that an officer told him, “If you move, I’ll shoot you in your head!” while § 87(2)(b) heard, “Show your effing hands! If not we’re going to shoot you!” Neither § 87(2)(b) nor § 87(2)(b) could provide descriptions of the officer who made these statements.

None of the other civilians heard an officer threaten to shoot his firearm, and none of the officers admitted to doing so.

§ 87(2)(g)

Allegation C – Abuse of Authority: PO Yevgeniy Zaytsev damaged § 87(2)(b)s property.

§ 87(2)(b) alleged that while she was recording the incident on her cellphone, PO Zaytsev approached her and said, “What’s this for?” He then grabbed her phone from her hand and threw it onto the ground, causing it to crack from the top left corner to the middle right side of the screen. This damage is visible in the photograph of § 87(2)(b)s phone, which was taken during her CCRB interview.

None of the civilians ever saw an officer throw § 87(2)(b)s phone on the ground.

PO Zaytsev denied throwing § 87(2)(b)s phone on the ground, and none of the officers interviewed ever saw him do so.

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date